

IN RE: PETITION FOR ZONING VARIANCE  
SW Corner Summer Hill Drive  
and Merryman's Mill Road  
13500 Summer Hill Drive  
10th Election District  
3rd Councilmanic District  
Fabi Beltran, et ux  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-267-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A03.4.B.6 (202.3) to permit a side yard setback of approximately 28 feet in lieu of the required 50 feet on a corner lot, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioner, Rach. R. Beltran, appeared and was represented by Alan M. Grochal, Esquire. There were no Protestants.

Mr. Grochal proffered testimony on behalf of the Petitioner which indicated that the Beltrons have owned the subject property since 1980. Testimony indicated that the subject addition was built sometime in the early 1960s prior to the Petitioners' ownership of the house. Mr. Grochal indicated that when the Petitioners purchased the house, it was represented to them that the house was not encroaching on the 50 foot setback, as indicated on Petitioners' Exhibit No. 1.

Testimony further indicated that there is approximately 85 feet from the Beltrons property to the centerline line of Merryman's Mill Road which drops dramatically from the Beltrons property to said roadway. It was apparent from the testimony and evidence presented that this area is unsuitable for residential development.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and their

property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of March, 1990 that a Petition for a Zoning Variance to permit a side yard setback of approximately 28 feet in lieu of the re-

quired 50 feet on a corner lot, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.
3. The Petitioners shall not allow or cause the addition to be converted to a second dwelling unit and/or apartment.

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH/mm  
cc: Peoples Counsel

PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-267-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A03.4.B.6 (202.3) to permit a side yard setback of approximately 28 feet in lieu of the required 50 feet on a corner lot.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

See Attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Fabi Beltran
Signature	Signature
Address	Rachel R. Beltran
City and State	(Type or Print Name)
Attorney for Petitioner:	Signature
Alan M. Grochal	13500 Summerhill Drive
(Type or Print Name)	Address
Signature	Phoenix, Maryland 21131
201 N. Charles Street	City and State
Baltimore, Maryland 21201	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	Alan M. Grochal
Attorney's Telephone No.: 301-752-6100	201 N. Charles Street
	Address
	Baltimore, Maryland 21201
	City and State
	Phone No.
	752-6100

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of March, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, the property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 100, County Office Building in Towson, Baltimore County, on the 2nd day of March, 1990 at 9:00 o'clock P.M.

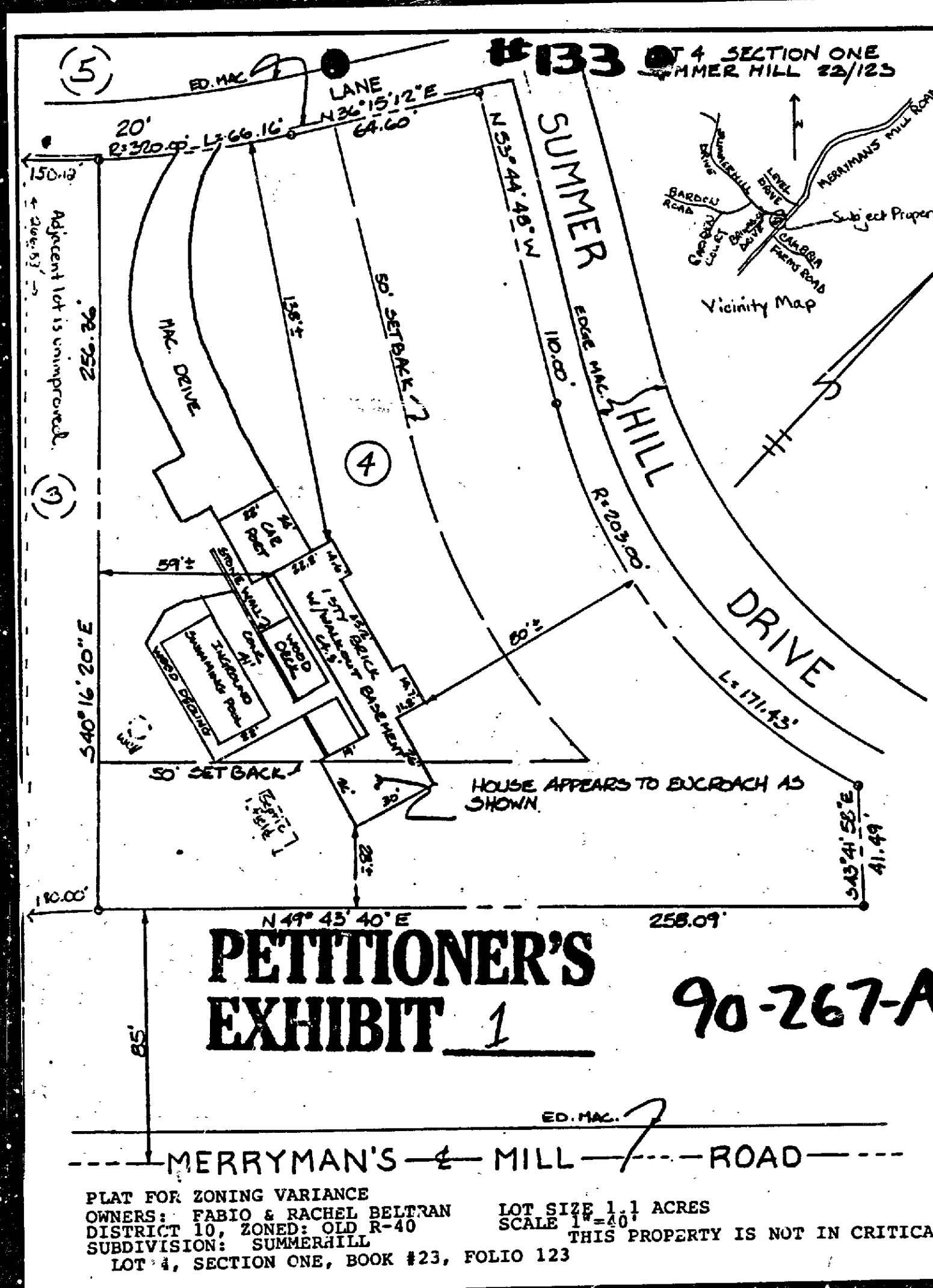
ESTIMATED LENGTH OF HEARING: 1/2 HR.  
AVAILABLE FOR HEARING: MON., TUES., WED. - NEXT TWO MONTHS  
ALL OTHERS  
REVIEWED BY: J. Robert Haines  
DATE: 3/2/90

ATTACHMENT TO PETITION FOR ZONING VARIANCE  
at 13500 SUMMERHILL DRIVE  
PHOENIX, MARYLAND

1. At the present time, the house located on the property encroaches upon the 50 foot setback by approximately 22 feet. Strict compliance with the setback requirement would require the applicants, Mr. and Mrs. Beltran, to destroy a substantial part of their home. Thus, conformance with the setback requirement would be unnecessarily burdensome to the Beltrons.
2. If the County granted the variance, no injustice would result to the Beltrons or any other party. When the Beltrons purchased the property at 13500 Summerhill Drive, the structure on the property had already been built. Furthermore, they relied upon a survey which showed no encroachments due to the location of the house. Thus, the encroachment was not caused by the Beltrons, nor did they know of its existence.
3. To grant relief to the applicants would observe the spirit of the regulation, in that a substantial setback of 22 feet would still remain. In addition, an 85 foot stretch of the property extends from the side of the structure to the center of the nearest road. Therefore, the variance would not affect the public's safety nor its welfare.
4. For the abovesaid reasons, conformance with the side setback would create practical difficulty and undue hardship for the present owners, and the County should grant the applicants a variance from the 50 foot setback.

ZONING DESCRIPTION  
FOR 13500 SUMMERHILL DRIVE

Beginning at a point on the south side of Summerhill Drive which is 22.5 feet wide at the distance of 0 feet west of the centerline of the nearest improved intersecting street Merryman's Mill Road which is 85 feet wide. Being Lot #4, Block A, Section #1 in the subdivision of Summerhill as recorded in Baltimore County Plat Book #23, Folio #123, containing approximately 1.1 acres. Also known as 13500 Summerhill Drive and located in the 10th Election District.



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

Mr. & Mrs. Fabi Beltran  
13500 Summerhill Drive  
Phoenix, Maryland 21131

Re: Petition for Zoning Variance  
CASE NUMBER: 90-267-A  
S/CORNER Summer Hill Drive and Merryman's Mill Rd.  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabi Beltran, et ux  
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:00 a.m.

Dear Mr. & Mrs. Beltran:

Please be advised that \$ 145.25\*\* is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204 (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for set such set not returned.

Very truly yours,  
J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

NOTES:  
\*\*INCLUDES ADVERTISING & POSTING CHARGES RELATIVE TO THE ORIGINAL HEARING DATE.  
If "PHONE 11" of the "SUN" EMERGENCY PLAN is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

January 26, 1990

# NOTICE OF HEARING



Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 90-267-A  
SAC: Summer Hill Drive and Merryman's Mill Rd.  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabio Beltran, et ux  
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:00 a.m.

Variances: To permit a side yard setback of approximately 28 ft. in lieu of the required 50 ft. on a corner lot.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

(If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

## NOTE:

J. Robert Haines  
Zoning Commissioner  
BALTIMORE COUNTY, MARYLAND

cc: Mr. & Mrs. Beltran  
Alan M. Grochal, Esq.  
File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

DEC 12 1989



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Fabio Beltran  
13500 Summer Hill Drive  
Phoenix, Maryland 21131

Re: Petition for Zoning Variance  
CASE NUMBER: 90-267-A  
SAC: Summer Hill Drive and Merryman's Mill Road  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabio Beltran, et ux  
HEARING SCHEDULED: TUESDAY, JANUARY 2, 1990 at 2:00 p.m.

Dear Petitioner(s):

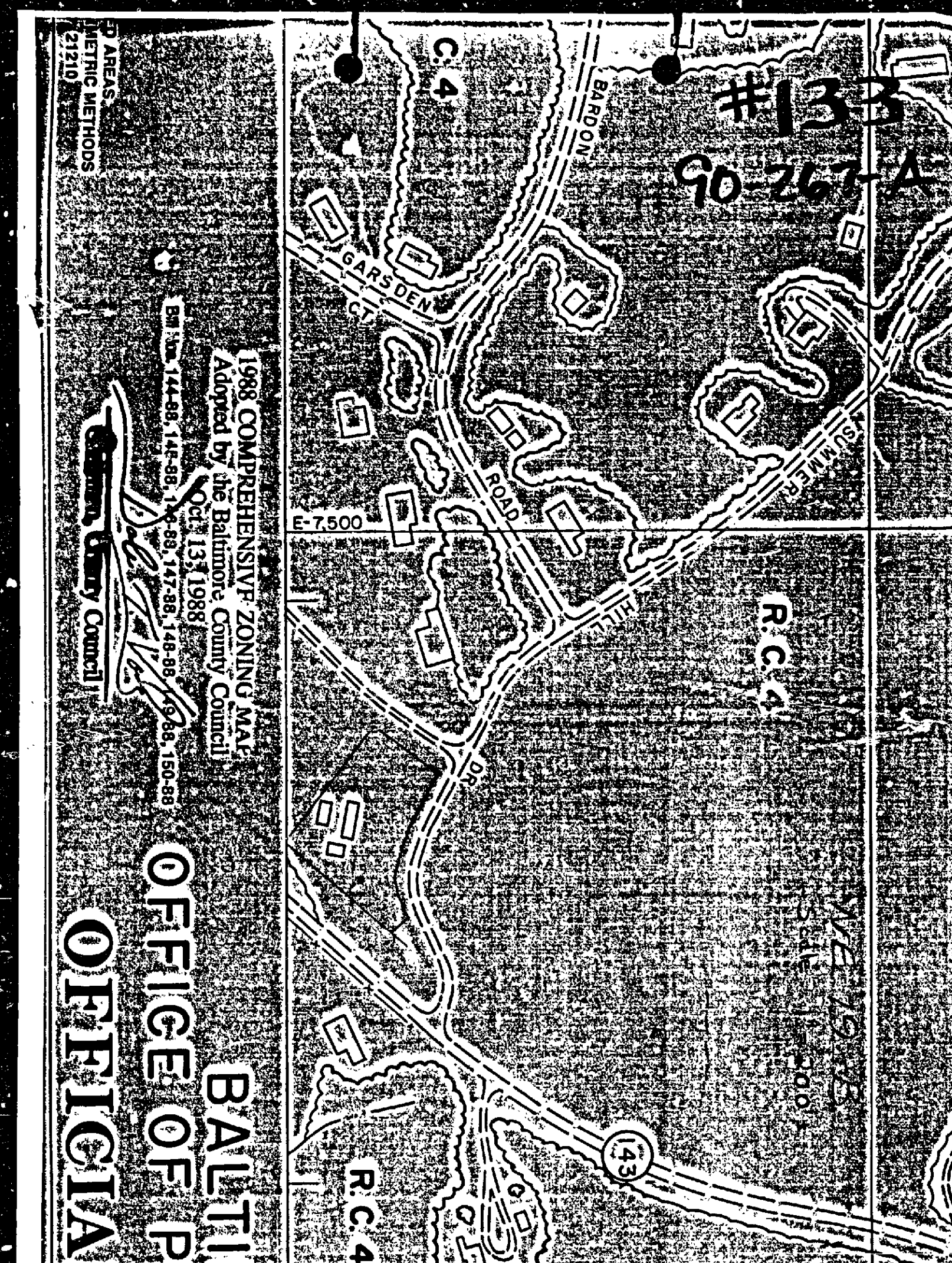
Please be advised that \$ 1292.48 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

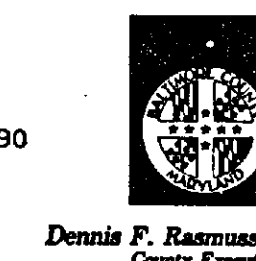
J. ROBERT HAINES  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

JRH:ga  
cc: Alan M. Grochal, Esq.  
File



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

March 20, 1990



Dennis F. Rasmussen  
County Executive

Alan M. Grochal, Esquire  
201 N. Charles Street  
Baltimore, Maryland 21201

RE: Petition for Zoning Variance  
Case No. 90-267-A  
Fabio Beltran, et ux, Petitioners

Dear Mr. Grochal:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,  
J. Robert Haines  
Zoning Commissioner

JRH:mem  
att:  
cc: Peoples Counsel

cc: Mr. and Mrs. Fabio Beltran  
13500 Summer Hill Drive  
Phoenix, Maryland 21131

# CERTIFICATE OF PUBLICATION

TOWSON, MD. December 7, 1989

THIS IS TO CERTIFY, that the annexed advertisement published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 6, 1989.

TOWSON TIMES

S. Zehe Orlan  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:  
Petition for Zoning Variance  
Case number: 90-267-A  
SAC: Summer Hill Drive and Merryman's Mill Road  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabio Beltran, et ux  
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:00 a.m.  
Variances: To permit a side yard setback of approximately 28 ft. in lieu of the required 50 ft. on a corner lot.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.  
J. ROBERT HAINES  
Zoning Commissioner  
BALTIMORE COUNTY, MARYLAND  
TOWSON, MD. 21204

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

November 30, 1989

## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance  
CASE NUMBER: 90-267-A  
SAC: Summer Hill Drive and Merryman's Mill Road  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabio Beltran, et ux  
HEARING SCHEDULED: TUESDAY, JANUARY 2, 1990 at 2:00 p.m.

Variances: To permit a side yard setback of approximately 28 feet in lieu of the required 50 feet on a corner lot.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner  
BALTIMORE COUNTY

JRH:ga  
cc: Mr. & Mrs. Fabio Beltran  
Alan M. Grochal, Esq.  
File

# CERTIFICATE OF PUBLICATION

TOWSON, MD. December 7, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 7, 1989.

THE JEFFERSONIAN

S. Zehe Orlan  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:  
Petition for Zoning Variance  
Case number: 90-267-A  
SAC: Summer Hill Drive and Merryman's Mill Road  
13500 Summer Hill Drive  
10th Election District - 3rd Councilmanic  
Petitioner(s): Fabio Beltran, et ux  
HEARING: WEDNESDAY, MARCH 14, 1990 at 9:00 a.m.  
Variances: To permit a side yard setback of approximately 28 ft. in lieu of the required 50 ft. on a corner lot.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.  
J. ROBERT HAINES  
Zoning Commissioner  
BALTIMORE COUNTY, MARYLAND  
TOWSON, MD. 21204

# CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

Date of Posting: 12/15/89

District: 10th  
Posted for: Variance  
Petitioner: Fabio Beltran et ux  
Location of property: SAC Summer Hill Drive & Merryman's Mill Rd. 13500 Summer Hill Drive  
Location of Sign: Property of Beltran  
Remarks: 12520 Summer Hill Drive, approx 18' from driveway, on property of Beltran  
Posted by: J. Robert Haines  
Number of Signs: 1



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 20, 1989

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

000

MEMBERS  
Bureau of  
Engineering  
Department of  
Traffic Engineering  
State Roads Commission  
Bureau of  
Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial  
Development

Alan M. Grochal, Esquire  
201 N. Charles Street  
Baltimore, MD 21201

RE: Item No. 133, Case No. 90-267-A  
Petitioner: Fabio Beltran, et ux  
Petition for Zoning Variance

Dear Mr. Grochal:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

*James E. Dyer*  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Fabio Beltran  
13500 Summerhill Drive  
Phoenix, MD 21131

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Fabio Beltran, et ux, Item 133  
Zoning Petition No. 90-267A

DATE: December 12, 1989

The Petitioners request a variance to side yard setback requirements.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County  
Fire Department  
800 York Road  
Towson, Maryland 21204-2586  
(301) 887-4500

Paul H. Reincke  
Chief

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

Dennis F. Rasmussen  
County Executive

RE: Property Owner: Fabio Beltran, et ux  
Location: SWC Summer Hill Drive & Merryman's Mill Rd.  
Item No.: 133 Zoning Agenda: 10/31/89

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this  
1st day of November, 1989.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

*James E. Dyer*  
Chairman  
Zoning Plans Advisory Committee

Petitioner: Fabio Beltran, et ux  
Petitioner's Attorney: Alan M. Grochal

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 406  
Towson, Maryland 21204  
(301) 887-3554

November 9, 1989

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

RECEIVED  
NOV 16 1989  
ZONING OFFICE

Dennis F. Rasmussen  
County Executive

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 500, 131, 132, 133, 134, 135, 137, 138, 139, 140 and 141.

Very truly yours,

*Michael S. Flanigan*  
Michael S. Flanigan,  
Traffic Engineer Associate II

MSF/lab

REVIEWER: *Capt. James Kelly 11-3-89* Noted and Approved *Capt. T.M. Brady*  
Planning Group  
Special Inspection Division  
Fire Prevention Bureau

NOV 07 1989